

REMARKS/ARGUMENTS

Claims 1-14 are pending in the present application. Claims 1-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Jansen et al. (U.S. Patent No. 6,141,614). Applicant respectfully traverses this rejection.

Claims 1-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Jansen. Anticipation "requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee." Hoover Group, Inc. v. Custom Metalcraft, Inc., 66 F.3d 299, 302, 36 U.S.P.Q.2d 1101, 1103 (Fed. Cir. 1995). "[P]rior knowledge by others requires that all of the elements and limitations of the claimed subject matter must be expressly or inherently described in a single prior art reference." Elan Pharms., Inc. v. Mayo Foundation for Medical Educ. & Research, 304 F.2d 1221, 1227, 64 U.S.P.Q.2d 1292 (Fed. Cir. 2002) (citing In re Robertson, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999); Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 1571 7 U.S.P.Q.2d 1057, 1064 (Fed. Cir. 1988)). "The single reference must describe and enable the claimed invention, including all claim limitations, with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention." Id. (citing Crown Operations Int'l, Ltd. v. Solutia Inc., 289 F.3d 1367, 1375, 62 U.S.P.Q.2d 1917, 1921 (Fed. Cir. 2002); In re Spada, 911 F.2d 705, 708 15 U.S.P.Q.2d 1655, 1657 (Fed. Cir. 1990)). See also PPG Indus., Inc. v. Guardian Indus. Corp., 75 F.3d 1558, 1566, 37 U.S.P.Q.2d 1618, 1624 (Fed. Cir. 1996) (emphasis added).

Claim 1 requires in part the step of "analyzing the soil sample in a lab on the robot platform." Similarly, claim 5 requires in part a robot having "a lab for analyzing the soil sample." In contrast, Jansen discloses that "the agricultural machine 104 may be equipped to sample the soil as the machine traverses the field 108," (Col. 4, lines 46-48) (emphasis added). It does not disclose that the sample is analyzed in a lab on the agricultural machine. Rather, the only disclosure by Jansen of analysis of the soil is where the "agricultural machine 104 may traverse the agricultural field 108 for the express purpose of obtaining soil samples for analysis by a lab." (Col. 4, lines 42-45). There is no teaching by Jansen where analysis of the soil sample occurs in a lab on the robot as is required by claims 1 and 5. Accordingly, as Jansen does not disclose each and every limitation of claims 1-14, it does not anticipate the claims and the rejection should be withdrawn.

With regard to claims 1 and 5, the Examiner has interpreted the language of Janzen to imply that the Janzen soil data parameter (304) which provides data on soil condition would have some means of analyzing the soil in order to determine the soil's condition. Anticipation, however, can occur when a claimed limitation is inherent or otherwise implicit in the relevant reference. Standard Havens Products, Inc. v. Gencor Industries, Inc., 953 F.2d 1360, 1369 (Fed. Cir. 1991); Continental Can Company USA, Inc. v. Monsanto Company, 949 F.2d 1264, 1267 (Fed. Cir. 1991). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may be the result from a given set of circumstances is not sufficient." In re Oelrich, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) (quoting Hansgrig v. Kemmer, 102 F.2d 212, 214, 40 USPQ 665, 667 (CCPA 1939)). Under the

principals of inherency, if a structure in the prior art necessarily functions in accordance with the limitations of a process or method claim of an application, the claim is anticipated. In re King, 801 F.2d 1323, 231 USPQ 136, 138 (Fed. Cir. 1986). Nonetheless, for a prior art reference to anticipate a claim, the reference must disclose each and every element of the claim with sufficient clarity to prove its existence in the prior art . . . although this disclosure requirement presupposes the knowledge of one skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read into the prior art reference teachings that are not there. Motorola, Inc. v. Interdigital Technology Corp., 121 F.3d 1461, 43 USPQ2d 1481, 1490 (Fed. Cir. 1997).

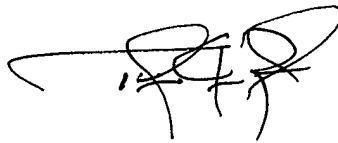
The disclosure of Janzen, cited by the Examiner, merely teaches that, "a GPS equipped agricultural machine 104 may traverse the agricultural field 108 for the express purpose of obtaining soil samples for analysis by a lab." (Col. 4, lines 42-45). Nothing in this single sentence requires that the lab be located on the agricultural machine. Equally possible is that the soil sample be taken to a lab at an independent location for analysis. Thus, the mere "possibility" that the lab might be located on the agricultural machine is an insufficient and improper basis for finding the claim anticipated. Thus, Jansen does not teach analyzing a soil sample in a lab or the use of a lab on the robot for analyzing a soil sample and therefore each and every limitation of the claims is not met and the anticipation rejection must be withdrawn.

CONCLUSION

In view of the above amendments and remarks, Applicant believes that this application is in condition for allowance and Applicant respectfully requests allowance of this application.

If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200. All fees or extensions of time believed to be due in connection with this response are attached hereto; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-2098.

Respectfully submitted,



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